2025:PHHC:040877

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-2934-2025 (O&M)
Date of decision : 26.03.2025

Amar Singh Singal **...Petitioner**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate and
Mr. Harlove Singh Rajput, Advocate
for the applicant-petitioner.

Ms. Himani Arora, AAG, Punjab.

Mr. Davinder Singh Khurana, Advocate
for respondent No. 4.

MANISHA BATRA, J. *(Oral)*

1. The present petition has been filed under Article 226 of the Constitution of India for issuing a writ in the nature of Habeas Corpus for the release of the brother of the petitioner, namely Surinder Singal @ Gagni, who was illegally detained by respondents No. 2 and 3 in the premises of respondent No.4.

2. The petition came up for hearing before this Court on 23.03.2025 (Sunday) and it was taken up at 03:30 PM at Camp Office and while issuing notice of motion to respondents, the Registry was directed to appoint a Warrant Officer to visit the place(s) as indicated by the petitioner and get the alleged detenue released in case, he was found to be in illegal confinement of respondents No. 2 and 3. In compliance with the same, the Warrant Officer, so

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appointed, had visited the premises of respondent No. 4 i.e. Guru Gobind Singh Medical College and Hospital, Faridkot and found that the alleged detenue was admitted there in prisoners ward. Statement of the treating doctor namely Dr. Ankush Aggarwal was recorded, wherein he stated that the alleged detenue was brought to the hospital on 20.03.2025 at 08:05 PM. He further stated that the alleged detenue could go home if wanted so. The Warrant Officer was apprised by the Investigating Officer/ASI Gurjant Singh, who was present in the hospital, that the alleged detenue had not been arrested by then. Accordingly, the alleged detenue was released after discharge from the hospital and since the petitioner was not available, his custody was handed over to Mr. Bikram Singh, who was an associate of learned counsel for the petitioner. However, it is an admitted position that the alleged detenue has been arrested subsequently on 24.03.2025 at 05:13 PM with the help of the Chandigarh Police.

3. Learned senior counsel for the petitioner has vehemently argued that the detenue was illegally detained by the police official and was kept in the said hospital since 20.03.2025. No proper procedure as laid down in law was followed while detaining the detenue. While relying upon the authority cited as ***Vihaan Kumar vs. State of Haryana and another : 2025 INSC 162***, learned senior counsel for the petitioner has argued that on account of the fact proper procedure was not followed while detaining the detenue, the entire subsequent proceeding stands vitiated and the same would be rendered *void ab initio*, making the detenue entitled to be released from custody forthwith.

4. *Per contra*, status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has

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argued that in fact the alleged detenue is a hardcore criminal, who is involved in as many as 07 FIRs involving heinous offences as well as the offences committed under NDPS Act. It is further submitted that on the basis of a secret information received on 20.03.2025, an FIR bearing No. 29 dated 20.03.2025 was registered against the alleged detenue and one Lakhwinder Singh under Sections 109(1) and 3(5) of Bharatiya Nyaya Sanhita, 2023 and Sections 25, 27 of the Arms Act, 1959. In order to apprehend the accused person, a barrier was laid. However, on seeing the police party, the alleged detenue and co-accused, in an attempt to flee, had fired shots at the police officials and in retaliation, shots were also fired by the police officials and the alleged detenue had sustained fire arm injury on his left leg. Accordingly, he was immediately admitted in the aforesaid hospital for his treatment. However, his formal arrest could not be effected as he was under treatment. An attempt was again made on 21.03.2025 to formally arrest the detenue but it could not be done for the same reason, vide DDR Nos. 27 and 35 dated 21.03.2025. It is further submitted that co-accused Lakhwinder Singh was produced before the Area Magistrate and he was duly informed about the factum of alleged detenue being admitted in the hospital. The alleged detenue was under medical treatment and since he was not formally arrested in the said case, he was discharged from the hospital on 23.03.2025 when the Warrant Officer reached there. It is further submitted that the alleged detenue has now been arrested on 24.03.2025 from Chandigarh in connection with some other case.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

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6. It is an admitted position that the aforesaid FIR No. 29 has been registered against the petitioner and co-accused Lakhwinder Singh on 20.03.2025 and when the police officials attempted to apprehend them, a shootout ensued between the police and accused persons on the same day, in which, the alleged detenue had sustained fire arm injury on his left leg. Consequently, he was admitted in the aforesaid hospital since 20.03.2025. However, his formal arrest could not be effected due to his medical condition. It is also an admitted position that at the instance of Warrant Officer, appointed by this Court, the alleged detenue had been got released on 23.03.2025 after his discharge from the hospital. In view thereof, even if for the sake of arguments, it is believed that the alleged detenue was in illegal detention of respondents No. 2 and 3, the fact which speaks in volume is that he had been got released on 23.03.2025 itself, as mentioned above. Hence, the proceedings of the present petition stand culminated. If the petitioner has now been re-arrested on 24.03.2025 either in connection with aforesaid FIR No. 29 or with regard to some other case, as he is alleged to be involved in multiple criminal cases, a fresh cause of action has arisen, for which, the petitioner or the alleged detenue can take recourse to remedies available to them in accordance with law. Therefore, keeping in view the aforesaid facts and circumstances, the present petition is disposed of as no further orders are called for in the matter.

26.03.2025 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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